

88166509

03 MAY 1989

SPECIAL NOTICE LETTER FOR REMEDIAL DESIGN AND REMEDIAL ACTION
URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY
CERTIFIED MAIL: P 918 447 064 RETURN RECEIPT REQUESTED

Ronald P. Wargo, Vice President
 BRE Properties
 1 Montgomery Street, Suite 2500
 Telesis Tower
 San Francisco, CA 94104

Re: Raytheon, Intel and Fairchild Superfund Sites
 Middlefield - Ellis - Whisman Area (MEW Study Area)
 Mountain View, California

Dear Mr. Wargo:

NOTICE OF POTENTIAL LIABILITY

This letter follows notice letters that have been issued to you and other parties since May 10, 1985, in connection with the above-referenced site. As the listed contact person for the potentially responsible party (PRP) identified above, this letter has been sent to your attention.

This letter serves three basic functions. First, it contains a formal demand for reimbursement of costs that have been incurred, including interest thereon, in response to the health and environmental concerns at the site. Second, this letter notifies you that a 60-day period of formal negotiations with the Environmental Protection Agency (EPA) automatically begins with this letter. These negotiations will address all EPA requirements for response actions and claims for response costs. Third, this letter provides general and site-specific information to assist you in these negotiations.

DEMAND FOR COSTS

As indicated in the general notice letter previously sent regarding this site, EPA has information indicating that you may be a PRP as defined as Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act 42 U.S.C. 9607(a),

CONCURRENCES

SYMBOL	T-4-S	ENC	T4				
SURNAME	Eckert	hwb	Stramfuss				
DATE	5/2/89	5/3/89	5/3/89				

as amended (CERCLA), with respect to this site. With this letter, EPA demands that you reimburse EPA for its costs incurred to date, and encourages you to voluntarily negotiate a consent decree in which you and other PRPs agree to perform or finance the response activities identified below.

In accordance with CERCLA, EPA already has undertaken certain actions and incurred certain costs in response to conditions at the site. These response actions include site screening and evaluation and oversight of PRP activities. The costs to date of the response actions performed at the site through EPA funding is approximately two million four hundred and five thousand dollars (\$2,405,000.00). In accordance with Section 107(a) of CERCLA, EPA hereby demands payment of the above amount plus any and all interest recoverable under Section 107 or under any other provisions of law.

If full payment is not received within one hundred and fifty (150) days of this demand, interest will accrue from the date of this demand at the current interest rate published by the U.S. Treasury (TFRM 6-8000) and in accordance with the Debt Collection Act of 1982. In addition, if the full amount sought by the EPA is not voluntarily provided to the Government, a civil action may be commenced in federal district court to recover said amount.

You are also hereby notified that EPA anticipates expending additional funds for Removal Actions and the Remedial Design and Remedial Action (RD/RA). Whether EPA funds the entire RD/RA, or simply incurs costs by overseeing the parties conducting these cleanup activities, you are potentially liable for these expenditures.

SPECIAL NOTICE AND NEGOTIATIONS MORATORIUM

EPA has determined that use of the Section 122(e) special notice procedures will facilitate a settlement between EPA and PRPs. This letter triggers a 60-day moratorium on certain EPA response activities at the site. During this 60-day period, the PRPs, including you, are invited to participate in formal negotiations with EPA. You are also encouraged to voluntarily negotiate a settlement providing for the PRPs, including yourself, to conduct or finance the response activities required at the site. The 60-day negotiation period ends on July 6, 1989. The 60-day negotiation moratorium will be extended for an additional 60 days if PRPs provide EPA with a good faith offer to conduct or finance the RD/RA. Should a 120-day negotiation moratorium take place, negotiations will conclude on September 4, 1989. If settlement is reached between EPA and the PRPs within the 120-day negotiation moratorium, the settlement will be embodied in a consent decree.

FUTURE RESPONSE ACTIONS

Future response activities at the site include:

1. Remedial Design
2. Remedial Action, which will consist of
 - a. A soil vapor extraction and treatment or soil excavation and treatment scheme that will be consistent with the remedial actions described in the Record of Decision (ROD);
 - b. A ground water extraction and treatment scheme that will be consistent with the remedial actions described in the ROD;
 - c. A potential conduit evaluation and sealing program that will be consistent with the potential conduit "Decision Tree Process" as described in the Feasibility Study;
3. Operation and maintenance of the aforementioned systems;
4. A long term monitoring program that will ensure the effectiveness of the extraction and treatment systems and the integrity of slurry walls at the sites;
5. Reuse of the extracted and treated ground water to the maximum extent practical with a goal of 100% reuse.

DRAFT CONSENT DECREE

A copy of EPA's draft consent decree will be delivered to you in the near future. This will be provided to assist you and other PRPs in developing a good faith offer for conducting the RD/RA.

GOOD FAITH OFFER

As indicated, the 60-day negotiation moratorium triggered by this letter will be extended for 60 days if the PRPs submit a good faith offer to EPA. A good faith offer to conduct or finance the RD/RA is a written proposal that demonstrates the PRPs qualifications and willingness to conduct or finance the design, implementation, and monitoring of the remedy for a RD/RA and includes the following elements:

1. A statement of willingness by the PRPs to conduct or finance the RD/RA, consistent with EPA's ROD (as outlined by the proposed plan) and draft consent decree, which provides a sufficient basis for further negotiations
2. A paragraph-by-paragraph response to EPA's draft consent decree.
3. A demonstration of the PRPs' technical capability to carry out the RD/RA including the identification of the firm(s) that may actually conduct the work or a description of the process they will use to select the firm(s)
5. A demonstration of the PRPS' capability to finance the RD/RA
6. A statement of willingness by the PRPs to reimburse EPA for past response costs and costs incurred in overseeing the PRP's conduct of the RD/RA
7. A statement of willingness by the PRPs to submit a workplan for a Remedial Design based on EPA's ROD within 90 days.
8. The name, address and phone number of the party or the steering committee who will represent the PRPs in negotiations.

RECIPIENTS OF SPECIAL NOTICE LETTERS

EPA has established two tiers of PRPs for these sites and study area. Tier One Parties consist of those parties that, based on soil and ground water investigations, own or operate facilities or properties that have contaminated soil overlying areas of contaminated ground water. Tier Two Parties are those parties that have failed to respond to EPA's request to conduct investigations at their facilities. Tier Two Parties are now being required to conduct an investigation of soils and/or ground water in the area of their respective facilities. Based on the outcome of these investigations, Tier Two Parties may be required to conduct remedial actions.

EPA has determined that you are a Tier Two Party and you should respond accordingly. A list of all Special Notice PRPs is attached to this letter.

ADMINISTRATIVE RECORD

Pursuant to CERCLA Section 113(k), EPA has established an administrative record file that contains documents that form the basis for EPA's decision on the selection of a response action for the site. This administrative record is open to the public for inspection at EPA Region IX and the City of Mountain View Library.

INITIAL MEETING

In order to facilitate the design of a workable Good Faith Offer, the PRPs will have the opportunity to meet with EPA on May 17, 1989 from 9:30 until 4:00. This will also allow the PRPs to discuss steering committee formation and settlement issues among themselves. This meeting is open to all Special Notice PRPs.

PRP RESPONSE AND EPA CONTACT PERSON

You have ten (10) calendar days from the date of this notice to notify EPA in writing of your willingness to negotiate the performance or financing of the RD/RA. You may respond individually or through a steering committee if such a committee has been formed. If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of your liabilities in connection with the activities. You may be held liable by EPA under Section 107 of CERCLA for the cost of the cleanup activities EPA performs at the sites and study area.

Your response to this notice letter should be sent to:

Gregory E. Eckert
South Bay Section T-4-5
Superfund Programs
Hazardous Waste Management Division
U.S. Environmental Protection Agency
215 Fremont Street
San Francisco, CA 94105
(415) 974-7411

If you have any further questions pertaining to this matter, please contact Gregory Eckert or Robert W. Bergstrom, Office of Regional Counsel, at (415) 974-0492.

Sincerely,

Jerry Clifford,
Assistant Director for Superfund
Hazardous Waste Management Division

Attachment

cc: Steve Ritchie, RWQCB
Howard Hatayama, DHS

P 918 447 064

RECEIPT FOR CERTIFIED MAIL

NO INSURANCE COVERAGE PROVIDED
NOT FOR INTERNATIONAL MAIL
(See Reverse)

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P.O., State and ZIP Code San Francisco, CA 94105	
Postage	\$
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Special Delivery Fee	
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Return Receipt showing to whom and Date Delivered	
Return Receipt showing to whom, Date, and Address of Delivery	
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PS Form 3800, June 1985

PS Form 3811, July 1983 447-845

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3. Article Addressed to:
**Ronald P. Wargo, Vice President
BRE Properties
1 Montgomery Street, Suite 2500
Teleis Tower
San Francisco, CA 94105**

4. Type of Service:	Article Number
<input type="checkbox"/> Registered <input type="checkbox"/> Insured <input checked="" type="checkbox"/> Certified <input type="checkbox"/> COD <input type="checkbox"/> Express Mail	P 918 447 064

Always obtain signature of addressee or agent and **DATE DELIVERED.**

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8. Addressee's Address (ONLY if requested and fee paid)

DOMESTIC RETURN RECEIPT

